

TITLE 5. Education

Bureau for Private Postsecondary and Vocational Education Department of Consumer Affairs

NOTICE IS HEREBY GIVEN that the Bureau for Private Postsecondary and Vocational Education ("BPPVE") is proposing to take the action described in the Informative Digest.

Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Department of Consumer Affairs tentatively scheduled at 1625 North Market Boulevard, First Floor Hearing Room, Sacramento, California, at 10.00 A.M. on March 6, 2006. **However, because the BPPVE has moved and some areas are still under construction, please call (916) 574-7727 or check the BPPVE's Web site at www.bppve.ca.gov for any changes to the hearing date, location or time.** The BPPVE will do everything possible to notify interested parties of any changes concerning the hearing.

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the BPPVE at its office not later than 5:00 p.m. on March 6, 2006 or must be received by the BPPVE at the hearing.

The BPPVE, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 94774, 94774.5, and 94778 of the Education Code, and to implement, interpret or make specific Sections 94931 and 94931.1 of said Code, the BPPVE is considering changes to Division 7.5 of Title 5 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Sections 94774, 94774.5 and 94778 of the Education Code provide the BPPVE the authority to adopt regulations relating to the responsibilities and functions of administering a statewide private postsecondary and vocational educational regulatory program.

Section 94931 of the Education Code grants the authority to the BPPVE to register institutions that meet specified requirements to offer short-term educational services and programs and to establish the initial registration fee and annual fees to be paid by these institutions. The section also provides that the chief executive officer of the registered institution must complete a registration form provided by the BPPVE that

discloses to the public specific information relating to its ownership and operations.

Section 94931.1 of the Education Code specifies that the registered institution must provide students with enrollment agreements or registration forms that comply with certain content and notice requirements. This section also mandates that a registered institution's non-conformity with any requirement of the section results in invalidation of any enrollment agreement or registration form, as well as a refund of all tuition to the student.

The BPPVE proposes to amend and repeal regulations in Chapter 5 and adopt Chapter 9 regulations in Division 7.5 of Title 5 of the California Code of Regulations.

1. Amend Section 74006. Existing regulations do not differentiate between the time limits and responsibilities for submitting fees for registered institutions and those for other types of institutions regulated by the BPPVE. This regulatory proposal would provide for such regulations and, in particular, clarify that the annual fee to be assessed a registered institution shall be paid during the first quarter of the calendar year following the registration of each type of educational service or program.
2. Amend Section 74030. Existing regulations do not require registered institutions to submit an application on a form prescribed by the BPPVE when there is a change of ownership or a shift in control of the institution. This regulatory proposal would provide for such a regulation.
3. Amend Section 74040. Existing regulations do not provide time frames for the BPPVE to notify institutions when the application for registration is accepted for filing or not complete. This regulatory proposal would provide for such a regulation.
4. Adopt Chapter 9. Existing regulations do not provide for a Chapter 9 or a title "Registered Educational Services or Programs" in Division 7.5 of Title 5 of the California Code of Regulations. This proposal would provide for such chapter and title.
5. Adopt Article 1. Existing regulations do not provide for an Article 1 and title "General Provisions" in Chapter 9 of Division 7.5 of Title 5 of the California Code of Regulations. This proposal would provide for such an article and title.
6. Adopt Section 78000. Existing regulations do not specify the types of educational services and programs subject to the proposed regulations under Chapter 9. This regulatory proposal would provide for such a regulation.
7. Adopt Section 78006. Existing regulations do not specify the required information that the institution or applicant must submit to offer specified types of registered educational services or short-term education programs. This regulatory proposal would provide for such a regulation, and would clarify, in particular, that an

institution or applicant may submit an approval to operate application in lieu of the specified registration application.

8. Adopt Section 78008. Existing regulations do not specify the requirements for degree or non-degree-granting institutions that propose to offer registered educational services or programs. This regulatory proposal would provide for such a regulation.
9. Adopt Section 78010. Existing regulations do not specifies that if a registered institution or institution is to offer additional educational services or programs after initial registration, then a notification must be submitted to the BPPVE and that no new fee shall be collected for the addition of an educational service or program of the same type. Also, no existing regulation specifies that failure to provide the BPPVE with accurate and timely information is grounds for denial of the application or revocation of the institution's registration status. This regulatory proposal would provide for such regulations.
10. Adopt Article 2. Existing regulations do not provide for an Article 2 and title "Schedule of Fees" in Chapter 9 of Division 7.5 of Title 5 of the California Code of Regulations. This proposal would provide for such an article and title.
11. Adopt Section 78020. Existing regulations do not provide for a fee schedule that describes fees payable to the BPPVE in connection with an application for registration that is based on the types of educational services and programs being offered to students or specify that application fees and document fees are non-refundable. This regulatory proposal would provide for such a regulation.
12. Adopt Section 78022. Existing regulations do not specify annual fees, applicable delinquency fees or the consequences for not complying with payment of the annual fees. Also, no existing regulations specify the notification requirements when an institution discontinues offering an educational service or program. This regulatory proposal would provide for such a regulation.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: NONE

Nondiscretionary Costs/Savings to Local Agencies: NONE

Local Mandate: NONE

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: NONE

Business Impact:

The BPPVE has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Before the 1998 changes to the Private Postsecondary and Vocational Education Reform Act of 1989 (“Act” – Education Code sections 94700 and following), institutions had to seek approval to operate as a “degree,” “non-degree” or “vocational” educational institution, or a “short-course institution,” which involved separate fees for each location. The approval process was much more complex and expensive for the institution under these other school approval categories.

Current law and these proposed regulations would implement the intent of the 1998 amendments to the Act to reduce fees and eliminate redundancy and duplication of effort by educational institutions that wish to offer short-term educational programs. Except for “Short-term Career Training”, the initial fees for registration are lower than those previously required for “short-course institutions” under regulations in effect before 2001, and are substantially less than the fees that have to be paid for obtaining and maintaining approval under the other licensing categories.

The initial registration fee for “Short-term Career Training” was previously \$700. These proposed regulations will increase the fee to \$800. The fee increase is based on additional conditions “Short-term Career Training” is required to meet, such as disclosures associated with students’ eligibility for pro-rata refunds and reimbursement from the Student Tuition Recovery Fund. These programs must disclose completion and placement data and are subject to initial site visits at the Bureau’s discretion. These additional requirements considerably increase the time required for the Bureau to complete this type of application for registration and justify the slightly increased cost. Further, the elimination of fees previously charged for program changes (such as an added or changed site) offset the increase in the initial application fee.

The following studies/relevant data were relied upon in making the above determination:

- A) Analysis dated July 18, 1997, Senate Committee, Business and Professions
- B) Analysis dated July 17, 1997, Assembly Committee on Higher Education
- C) “Short-course” institutions regulation, former Title 5, California Code of Regulations section 74012 repealed on October 22, 2001
- D) Legislative Counsel’s Digest dated February 19, 2004
- E) Revenue Detail for Proposed BPPVE Regulations for Registered Institutions Program dated December 6, 2005

Impact on Jobs/New Businesses:

The BPPVE has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of

jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The BPPVE estimates the potential cost impact of the proposed regulations on directly affected private persons or entities to be an initial cost of \$500 for all types of registered educational service other than “Short-term Career”, for which the initial cost of registration is \$800. The higher initial registration fee reflects the additional processing time required by the Bureau to verify student protections and financial information required from institutions offering this type of registered program. All programs will pay annual fees of \$200 thereafter.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The BPPVE has determined that the proposed regulations would affect small businesses.

CONSIDERATION OF ALTERNATIVES

The BPPVE must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The BPPVE has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Bureau for Private Postsecondary and Vocational Education at 1625 North Market Boulevard, Suite S-202, Sacramento, California 95833 or from the BPPVE’s Web site.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection, by contacting the person named below.

You may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or by accessing the Web site listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name:	Jeanne Ireland, Regulations Coordinator
Address:	1625 North Market Boulevard, Suite S-202 Sacramento, CA 95833
Telephone No.:	(916) 574-7727
Fax No.:	(916) 574-8650

The backup contact person is:

Name:	Joanne Wenzel
Address:	1625 North Market Boulevard, Suite S-202 Sacramento, CA 95833
Telephone No.:	(916) 574-7794
Fax No.:	(916) 574-8649

Web site Access: Materials regarding this proposal can be found at www.bppve.ca.gov.